IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1199 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

M SAM KUTTY

Versus

STATE OF GUJARAT

Appearance:

MR AD SHAH for Petitioners

MR KP RAWAL, APP for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 21/07/2000

ORAL JUDGEMENT

The petitioner No.1 is Branch Manager of Ashok Leyland Finance Ltd. which is a company registered under

the Companies Act having its Registered Office at Madras. The petitioner No.2 is the Director of M/s. Automotive Manufacturers Ltd. having its Registered Office at Bombay and the petitioner No.3 is an employee of petitioner no.2.

2. The respondent no.2 carried on the business of transport. It appears that he purchased three trucks under hire purchase agreement which was financed by Ashok Leyland Finance Ltd. On 24.06.1992, respondent no.2 filed a complaint (Inquiry Case No.130 of 1992) in the Court of Metropolitan Magistrate, Ahmedabad alleging that the petitioners had committed offences punishable under Section 406 and 420 read with Section 114 of the IPC. The Learned Metropolitan Magistrate, Court No.15, ordered police investigation under Section 156(3) of CRPC. The petitioners filed this Special Criminal Application under Article 226 of the Constitution on 03.07.1992. Notice was made returnable on 17.07.1992 and interim relief staying further investigation was granted. None appeared for respondent no.2 in response to the notice. On 06.08.1992, rule was issued on the petition and it was made returnable on 24.08.1992. None appeared for respondent no.2 even thereafter. Interim relief has continued since then.

3. It appears from the averments made in the original complaint that the dispute was about the rate of interest to be charged. The complaint also refers to a Civil Suit which the respondent no.2 had already filed. It is clear from the averments made in the complaint that the dispute between the parties is of a civil nature and it cannot be said that the complaint discloses any offence punishable under Section 406 and 420 of the IPC. The petition is, therefore, allowed. The complaint in question is quashed. Rule made absolute accordingly.

hki